

BOOSTING INTEGRITY IN ROMANIAN PUBLIC PROCUREMENT



Siemens Integrity Initiative

Romanian national flagship report

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Executive summary

The Romanian National Flagship Report under the Siemens Integrity Initiative (SII) focuses on enhancing integrity in public procurement in Romania by implementing the Integrity Pact (IP) model, aligned with global standards. This initiative is part of a broader effort to promote transparency, accountability, and efficiency in public contracting, ultimately contributing to Romania's sustainable development goals (SDGs).

Public procurement in Romania represents approximately 8% of the GDP and plays a critical role in public investment. However, the procurement system faces challenges, including corruption, lack of transparency, weak administrative capacity, and legal instability. The Integrity Pact (IP), developed by Transparency International (TI), is a collective action tool designed to improve procurement governance, prevent corruption, and foster trust among stakeholders.

The key objectives of this report include:

1. Assessing public procurement challenges and the role of collective action in addressing them.
2. Presenting the Integrity Pact as an effective anti-corruption tool, based on global best practices and previous implementations in Romania.
3. Providing strategic recommendations for the adoption and implementation of the Integrity Pact in Romania's public procurement framework.

Despite efforts to strengthen governance, several critical issues persist in Romania's procurement system:

- Corruption and integrity risks related to high perception of corruption, favouritism, and clientelism in public contracting processes.
- Decentralization and lack of capacity, due to the existence of over 10,000 contracting authorities operating independently. This is leading to inconsistent practices and vulnerabilities.
- Legal and procedural instability, with frequent amendments to procurement laws create uncertainty and inefficiencies.
- Limited use of open data and digital tools leading to weak public oversight mechanisms.

The Integrity Pact (IP) is a legally binding agreement that engages public authorities, civil society, and private sector actors to ensure fair and transparent procurement. The IP model in Romania consists of:

- A Monitoring Agreement between the contracting authority and a civil society monitor.
- A Declaration of Commitment signed by bidders and contractors.
- An Independent Monitoring Mechanism, ensuring compliance and transparency throughout the procurement cycle.

The Integrity Pact represents a powerful anti-corruption mechanism that can transform Romania's public procurement landscape. By strengthening governance, increasing transparency, and fostering multi-stakeholder collaboration, this initiative can contribute to fairer, more efficient, and corruption-free public contracting, ultimately advancing Romania's sustainable development and economic integrity. Pilot IP projects between 2016 and 2022 demonstrated positive results, including:

- Enhanced transparency in procurement processes.
- Increased competition in public tenders.
- Early detection of risks and irregularities.
- Improved collaboration between public authorities and civil society.

However, challenges remain, including voluntary adoption by bidders, limited access to evaluation processes, and weak enforcement mechanisms.

To institutionalize the Integrity Pact in Romania, the report proposes:

- Stronger legislative integration, making IPs a standard requirement in high-value contracts.
- Expanded monitoring mechanisms, with real-time audits and improved access to procurement data.
- Stronger commitments from bidders, including anti-corruption compliance programs.
- Enhanced use of digital tools, such as Open Contracting Data Standards (OCDS) to improve procurement transparency.
- Capacity building for Civil Society Organizations (CSOs) to act as independent monitors.
- Encouraging the private sector to engage in IPs through compliance incentives and ethical business standards.

Introduction

This report is part of the project „Bolstering Integrity in Public Contracting: A Reinvigorated Approach supported by Siemens Integrity Initiative”. The project aims to support the successful implementation of Integrity Pacts (IP) by national governments and to contribute, in this way, to improving competition and fairness in public contracting. Within the project, Transparency International (TI), as a movement, is working to reframe and strengthen the Integrity Pact as a global anti-corruption standard and to widen the number of policy and business leaders who promote the application and implementation of the Integrity Pact as an anti-corruption standard. To support these wider endeavors, one of the projects objectives is to embed the Integrity Pact standard in national or local public contracting projects or regulation in three countries, namely Argentina, Romania and Spain.

The overarching goal of this national flagship report for Romania is to **foster the strategic adoption and effective implementation of the (global) Integrity Pact (standard) in public investments and contracting projects** that are critical to the achievement of the Sustainable Development Goals (SDGs) in Romania. The report builds on the analysis of the procurement policies and practices in Romania, the policy paper proposing key reform elements for the Romanian procurement system and the proposed IP global standard developed by Transparency International Secretariat with the participation of our colleagues from TI chapters around the world and other stakeholders.

The specific objectives of the report are to:

- Describe the key challenges in public contracting and sustainable development in Romania and make the case for collective action (including the IP) as one of the main pathways to solve those challenges;
- Present the Integrity Pact as one the leading types of collective action initiatives for clean contracting, describing previous implementations in the country, discussing the main challenges and lessons learned, and outlining the structure, main features, and innovations of the revamped national IP model based on the global IP standard.
- Provide target audiences for the public sector, the private sector, civil society and the donors community with guidelines for the strategic adoption and effective implementation of the integrity pact in relation to a typical public investment / contracting project cycle, as well as recommendations for incorporation in national regulations and policies, with a focus on scalability and sustainability.

The target audience of the report includes:

- The public sector – the Romanian national government, the regional development agencies and the local authorities, the Court of Accounts, as well as the main public agencies responsible for anti-corruption and procurement (included the National Public Procurement Agency, the National Integrity Agency, the Competition Council etc.)
- State-owned enterprises (SOE) – especially the ones operating in the areas of energy, water, transports, waste management etc.
- Donors – especially the European Commission DGs providing funds for the cohesion policy in Romania, but also the European Economic Area, European Bank of Reconstruction and Development, the World Bank and other international organisations, climate funds, philanthropic organisations.
- Civil society organisations, including the ones active in areas relevant for the SDGs: environment, healthcare, and education.
- The private sector – including national business associations, multi-national corporations operating in the country, small and medium enterprises (SME).

Note on methodology

The main method used for the report is the desk-based research regarding the public procurement and sustainable development in Romania, key challenges in public contracting and the experience in Romania, until this moment, with collective action, especially in promoting public and private integrity. The report is based on the experience of Transparency International Romania (TI-Ro) with implementing Integrity Pacts as a pilot initiative for clean contracting between 2016 and 2021.

TI-Ro representatives also participated in the TI Movement consultation process for the development of a new, updated global IP standard and this report presents the specific elements and adaptations of the IP in the Romanian context, as well as the options for its future implementation, if legislative amendments advocated by TI-Romania are adopted.

In order to develop the IP model adapted to the Romanian legislation, administrative environment, particular challenges and corruption risks, TI-Ro organised consultations and meetings with responsible authorities, including the Ministry of Justice (the secretariat of the National Anticorruption Strategy), the Ministry of European Investments and Projects, the Court of Accounts. The proposals of the IP model are also based on the past discussions with the representatives of the National Public Procurement Agency.

Part 1 – Harnessing collective action for clean contracting in Romania

[1.1] Public contracting and sustainable development in Romania

1.1.1. Brief introduction to public contracting in Romania

Based on recent estimates, **public procurement in Romania makes up around 8% of the GDP, corresponding to more than 20% of the public budget or about €50 billion** (as government spending in Romania was last recorded at 39.9% of GDP in 2021).¹

This entire budget is spent in a very decentralised way, because in Romania each public institution represents a contracting authority and organises most of the procurements it needs. This is superposed on the administrative structure of Romania, including over 3 000 municipalities (most of them very small) and a large number of specialised institutions present at the level of each of the 41 counties. In total, there are over 10 000 contracting authorities in Romania. Each contracting authority must plan its procurement and procurement processes, develop terms of references, plan the calendar of procurement according to the legal terms and deadlines and conduct the bidders offers evaluation.

Romania transposed the new EU Directives in the field of public procurement in 2016. Four laws were adopted by the Parliament in May 2016: Law no. 98/2016 on public procurement, Law no. 99/2016 on sectorial procurement, Law no. 100/2016 on concession contracts for works and services and Law no. 101/2016 on remedies (appeals processes). However, the laws have been amended several times since and legal instability represents one of the weaknesses of the public procurement system. Beside the procurement laws, transposing the EU Directives, a large number of regulations, mandatory procedures and guidelines have been issued by the National Agency for Public Procurement (NAPP).

In line with the EU Directives, public contracts above a certain threshold are subject to competitive bidding. Moreover, contracts under the threshold value provided by the EU Directive 24/2014 on public procurement are required to apply a competitive bidding procedure, or, in the case of procurements of a very low value, contracting authorities must compare offers and prove they have chosen the best offer when verified by the Court of Accounts. On the other hand, procurement procedures as described by the law are not applicable to procurement mentioned on Annex no. 2 of the Romanian procurement law². Therefore, in practice, a large number of contracts are not covered by the European and national regulation and procedures should be established and managed by the contracting authorities, often small institutions with limited capacity both to manage procurements and to manage corruption/integrity risks.

To support the capacity of individual contracting authorities, the National Office for centralised procurement started procurements in 2018. It focusses on basic products used by all (or most of) the contracting authorities and the first contract for the centralised procurement was for office paper. It has had an important role in managing essential procurement of protective equipment during the COVID-19 pandemic, but some of these procurements are now under investigation. There is no intention to extend the centralised procurement system for complex services, like consultancy or construction. Therefore, except for the most commune staple products for the administration, there is no integrated/centralised way for procurement to be organised in the country, there is no integration or even coordination of procurement among Government institutions (ministries, national authorities and agencies), or among other institutions across governance levels.

¹ See: Bosio et al., 2020, "Public Procurement in Law and Practice", NBER Working Paper Series. See also; Institute for Public Policy, 2021, "Public procurement in Romania 2019-2020".

² Health-care, social and education services, hotel and restaurant services, legal services.

1.1.2. Approach to sustainable development in Romania

As a member of the United Nations (UN) and the European Union (EU), Romania has adopted the 2030 Agenda and its 17 Sustainable Development Goals (SDGs). Moreover, in order to organise the implementation in the country of the 2030 Agenda, Romania adopted the Sustainable Development Strategy 2030. This strategy was adopted by the Romanian Government at the end of 2018 and covers all the 17 SDGs of the 2030 Agenda for Sustainable Development.³

Romania's first sustainable development strategy from 1999 was based on the premise that the benefits of economic development should outweigh its costs, including those relating to the conservation and the improvement of the environment. The country's accession to the European Union in 2007 led to a change of Romania's national priorities, which resulted in the National Sustainable Development Strategy of Romania 2008-2020-2030, adopted on 12 November 2008. To meet the goals of the 2030 Agenda this strategy was revised. The reviewing process was coordinated by the Department of Sustainable Development with the contribution of the Editorial Commission, the General Secretariat of the Government, ministries and other central institutions and a wide consultation of the local authorities, regional development agencies, academic forums, R&D national institutes, employers' associations and trade unions, private sector, NGOs, other bodies of civil society and interested citizens. The new strategy, adopted in 2018, is more focused on the citizens and the environment compared to the previous one.⁴

In addition to the National Sustainable Development Strategy, Romania has developed a number of other strategies and policies aimed at promoting sustainable development, including the National Strategy for Climate Change Adaptation and Mitigation, the National Energy Strategy, and the National Biodiversity Strategy. Romania has also taken steps to implement sustainable development practices in specific sectors, such as agriculture, forestry, energy, and transport. For example, the country has developed programs to support the adoption of sustainable farming practices and the promotion of renewable energy sources.

The Romanian government used 108 indicators to track the progress towards the 17 SDGs, but until 2018 the majority of indicators – 48 indicators – were reflecting economic development. 43 indicators reflected social development and only 17 indicators reflected environment and climate preservation. In the decade 2008-2018, the 2020 sustainable development targets recorded for the 108 indicators showed some progress, but mainly in the economic area:

- significant progress in 48% of the areas, most of them regarding economic development;
- relative progress in 9% of the areas, most of them regarding economic development;
- stagnation in 28% of the areas, most of them in regarding social development;
- regression in 15% of the areas, in all three areas: economic, social and environment.⁵

Among examples of achieved results are:

- promoting conservation, as Romania established protected areas, such as national parks and nature reserves, including Nature 2000 areas, covering about 23% of its land area;
- developing the capacities and use of renewable energy, particularly wind and solar power. In 2020, renewable energy accounted for 48% of the country's electricity production, up from 41% in 2019;
- extending the area of land under organic farming over the last decade;

³ More details are available at: <https://dezvoltaredurabila.gov.ro/strategia-nationala-pentru-dezvoltarea-durabila-a-romaniei-2030-i>

⁴ Ibid.

⁵ The Romanian Government, "România Durabilă - Indicatori naționali pentru dezvoltare durabilă Orizont 2020"/ Sustainable Romania - National indicators for sustainable development Horizon 2020, <https://dezvoltaredurabila.gov.ro/romania-durabila-indicatori-nationali-pentru-dezvoltare-durabila-orizont-2020>

- investments in public transport particularly in major cities, to reduce reliance on private cars. For example, Bucharest extended the metro network and Bucharest and other cities introduced electric or hybrid buses in their mobility systems.⁶

Since 2019, a larger number of indicators reflecting social environment and climate goals are monitored. The progress, despite the COVID-19 pandemic, is visible, but slow and many targets established for 2020 have not been reached. In some cases, the pandemic generated actually regression. The crisis has touched all segments of the population, all sectors of the economy and all areas of the country and it is not surprising that it affects the most vulnerable groups, has exposed inequalities in our society and further aggravates existing disparities.

Therefore, many challenges persist regarding the environment and climate protection. For example, Romania faces significant environmental problems, such as deforestation and soil erosion. The country also has one of the lowest recycling rates in Europe, and waste management remains a major challenge. The country's high level of biodiversity is also under threat, with many species and habitats facing pressures from human activities. Romania is vulnerable to the impacts of climate change, including extreme weather events such as floods, droughts, and heatwaves.⁷

Additionally, Romania still relies heavily on coal for electricity production, and the country has a high level of energy poverty, with many households struggling to afford energy bills. Moreover, on the social dimension of sustainable development Romania is among the poorest countries, with a large number of people exposed to social exclusion and marginalisation. Some of the main challenges include:

- Poverty and inequality: Romania has one of the highest poverty rates in the EU, with around a quarter of the population living below the poverty line. There are also significant disparities in income and living standards between regions, with rural areas and the eastern and southwestern part of the country particularly affected.⁸
- Discrimination and exclusion: Marginalized groups, such as Roma communities, people with disabilities, and LGBTQ+ people, face significant discrimination and exclusion in Romanian society. This can limit their access to education, employment, healthcare, and other basic services.⁹
- Access to education: Romania has one of the highest rates of early school leaving in the EU, and many children from disadvantaged backgrounds do not have access to quality education. This can perpetuate cycles of poverty and exclusion.¹⁰
- Health and wellbeing: People from marginalized communities in Romania often face poorer health outcomes and have limited access to healthcare. This can further exacerbate social exclusion and poverty.¹¹
- Housing and living conditions: Many people in Romania live in poor quality housing or informal settlements, particularly in rural areas. This can limit their access to basic services such as water and sanitation, and can exacerbate social exclusion and poverty.¹²

⁶ Ibid. See also, UNECE, "Romania. Environmental Performance Reviews".

⁷ Ibid.

⁸ Ibid. See also Eurostat indicators of poverty and social inclusion.

⁹ Council of Europe Report, European Commission against Racism and Intolerance (ECRI) (2019), <https://rm.coe.int/fifth-report-on-romania-romanian-translation-/168094c9e7>. See also: European Commission - Roma Civil Monitor (2018), Report of the civil society monitoring the implementation of the national Roma integration strategy.

¹⁰ See also Eurostat indicators on education and UNICEF Romania reports.

¹¹ See reports of the Health observatory: <https://observatoruldesanatare.ro/acasa/>

¹² The Romanian Government, "România Durabilă - Indicatori naționali pentru dezvoltare durabilă Orizont 2020"/ Sustainable Romania - National indicators for sustainable development Horizon 2020, <https://dezvoltaredurabila.gov.ro/romania-durabila-indicatori-nationali-pentru-dezvoltare-durabila-orizont-2020>

1.1.3. Planned investments for Sustainable Development in Romania

Both the Romanian state budget and the EU funds will contribute the sustainable development. The most important investments are planned using EU funds (both non-reimbursable funds and loans), as state budget is mainly used for the basic functioning of the public services.

The Romanian National Reconstruction and Resilience Plan (PNRR) is a comprehensive plan aimed at supporting Romania's economic recovery and promoting sustainable development following the COVID-19 pandemic. The plan was developed in collaboration with the European Commission, and includes investments in a range of areas, including sustainable infrastructure, green energy, digitalization, and social inclusion.

Some of the key measures included in the PNRR to promote sustainable development in Romania include:

- Sustainable transport: The plan includes investments in sustainable transport infrastructure, including the expansion of public transport systems in urban areas and the development of electric vehicle charging infrastructure.
- Energy efficiency: The plan includes measures to improve the energy efficiency of buildings, with a focus on social housing and public buildings. This includes investments in insulation, heating systems, and renewable energy.
- Renewable energy: The plan includes investments in renewable energy, including wind and solar power, with a goal of increasing the share of renewable energy in the country's energy mix.
- Waste management: The plan includes investments in waste management infrastructure, including the construction of new waste treatment facilities and improvements to existing landfill sites.
- Digitalization: The plan includes investments in digital infrastructure, including the development of 5G networks, the expansion of broadband internet access, and investments in digital skills and education.
- Social inclusion: The plan includes measures to promote social inclusion and reduce poverty, including investments in education, healthcare, and social services, as well as support for marginalized groups such as Roma communities.

Additionally, a Sustainable Development Programme was approved in 2022 using the European Regional Development Fund within the Cohesion Policy of the EU for the period 2021-2027. The programme includes additional investments to be made in energy efficiency, renewable energy, waste management, environment protection, including the conservation of natural habitats and protected areas, as well as efforts to reduce pollution and improve air and water quality.

In the field of transportation, the Cohesion Policy of the EU for the period 2021-2027 supports a Transportation Programme, that includes investments in trains and railways, as well as the construction and organisation of sustainable transportation in the Danube Delta (in addition to investments in highways).

The Regional Development Programmes for the eight regions of Romania support energy efficiency and sustainable mobility in cities, including investments in public transport infrastructure, such as metro systems, tram lines, and bus rapid transit.

The Programme for Agriculture and Rural Development and the programme for Fishing are also supporting, among other things, organic farming, and conservation agriculture, as well as measures to support small-scale farmers and sustainable fishing.

[1.2] Key challenges in Romanian public contracting

1.2.1. The public buyers' capacity

One of the main challenges for Romanian public procurement is the capacity of public buyers to plan procurement procedures and to draft terms of references adapted to the particularities of the market without giving an undue advantage to a particular bidder. The NAPP and other authorities have organised training programmes for the procurement specialist in public institutions. However, because each public authority or institution separately manages the entire implementation of procurement processes, the capacity challenges for public procurement are easily emerging.

As mentioned, the entire implementation of procurement processes is separately managed by each public institution - and there are over 10 000 institutions - in its capacity of contracting authority. The poor capacity of contracting authorities represents an important issue for the integrity and correctness of public procurement procedures. Small institutions and small municipalities often face the risk of being unduly influenced by companies, especially when establishing technical specifications for procurement. The decentralisation of the procurement system represents a weakness, as all public/contracting authorities need to develop their capacity, and the lack of trained procurement experts is one of the most important challenges of the Romanian procurement system. This is further complicated by an unstable legal framework, frequent amendments to the law, and numerous secondary and tertiary normative acts that are difficult to manage. These issues are particularly problematic given the existing experts' work overload.

1.2.2. Missing the opportunity to use open data to improve public procurement

The laws on public procurements, concessions and remedies, in conjunction with Law no. 544/2001 on the access to public interest information, ensure robust transparency of key aspects of the public procurement process (planning, bidding, evaluation, implementation and monitoring). The information of interest for the procurement process and needed by bidders in order to prepare their tenders is published for all interested bidders on the electronic public procurement platform: *SEAP*, available at e-licitatie.ro. The entire "public procurement folder", including all documents regarding the procurement, the bidders offers and the proceedings and minutes of the bidding evaluation committees, can be requested and is made public only after contract awarding, based on Law no. 544/2001 on the access to public interest information.

However, how public buyers and civil society can work with information from the public procurement in order to ensure integrity generates other challenges. Although some progress was made in providing information on Romanian procurement and some data are easily available, there are important gaps related to procurement transparency. Open contracting data standards are not used and in general open data are not fully published or, when published, include a large proportion of errors that make any analysis difficult. On the one hand, not all documents are published by default, and some are still only available upon request. Bidders offers, as well as the communication between the tenders' evaluation committees and the bidders, are only available upon request. These pieces of information are essential to check the equal treatment applied to all bidders and to exclude the risk of favouritism. Moreover, the use of the legal right to declare parts of the offers as confidential is, apparently, abused in Romania. Extensive research is needed, but the experience of Transparency International Romania shows that in several cases bidders declare their entire offer as confidential, which is not allowed by the law providing that any confidential information should be thoroughly motivated by the bidder. Moreover, the quality, completeness and accuracy of open data regarding public procurement is still problematic.

1.2.3. The perception of corruption

Romania's public procurement system is perceived as vulnerable to corruption and irregularities. Companies perceive bribes and irregular payments to be widely exchanged in return for obtaining public contracts (over half of businesses report they encountered unclear evaluation criteria and conflicts of interest in public procurement). Moreover, licenses and procurement officials are strongly perceived to show favouritism when deciding on contracts according to the Business Anti-Corruption Portal.¹³

In this context, 74% of business think corruption prevented them from accessing a contract in a public procurement procedure, according to the Eurobarometer from 2020 on businesses' attitudes towards corruption.

In the Corruption Perception Index (CPI) Romania scored 44 out of 100 in 2012, and 46 out of 100 in 2022¹⁴. Therefore, despite efforts to improve the situation and the implementation of two National Anticorruption Strategies (2010-2015 and 2016-2020), there is still much work to be done to improve the integrity system and reduce perceptions of corruption. In 2020 alone, 20% of Romanians admitted paying a bribe during the previous 12 months (Global Corruption Barometer - GCB 2021). Although there is a progress from the 29% of Romanians admitting paying a bribe in 2015, Romania remains the EU member state with the most widespread petty corruption, a sign of systemic corruption¹⁵. 51% of Romanians consider that most or all members of the Parliament are corrupt and 40% consider that the national government officials are corrupt, indicating that citizen perceptions of grand corruption are also high. Local administration, including mayors, are considered corrupted by 33% of Romanian citizens.¹⁶ Romanians perception about the corruption among politicians, in the national and local government is reported in similar ways by the GCB and the Eurobarometers on corruption.

While there are no extensive studies comparing how corruption affects different institutions, surveys such as the Eurobarometers and the GCB have revealed that Romanian citizens perceive the healthcare system, police, customs, Parliament, and Government as among the most corrupt institutional systems. On the other hand, small municipalities and public institutions have low capacity to undertake public procurement processes and therefore they are under high risks of irregularities due to a lack of institutional control and oversight mechanisms.

1.2.4. The corruption risks

A study published in 2022 on public procurement integrity in Southeast Europe¹⁷ underlines a **clearly definable set of corrupt techniques** that are actively used in Southeast Europe, including Romania to siphon out public money for private gain: **favouritism and clientelism linked with other serious irregularities**. These irregularities include: the overpricing of contracts, tailored tender specifications, conflict of interest in the tendering process, a high share of non-open procedures and contract modification in the implementation phase. **Bribery can and has been associated with most of the above-mentioned irregularities** and the most illustrative cases of bribery in public procurement

¹³ European Union Anti-Corruption Report, 2014, cited by <https://www.ganintegrity.com/portal/country-profiles/romania/>.

¹⁴ Complete data available on the website of Transparency International: <https://www.transparency.org/en/cpi/2022/index/rou>.

¹⁵ There is data inconsistency between the Global Corruption Barometer: 20% public service users paid a bribe in the previous 12 months and the Eurobarometer on corruption in 2020, when 9% of respondents in Romania reported they experienced or witnessed any case of corruption and the Eurobarometer on corruption in 2020. However, in both cases 18% (2021) and 19% (2020) of respondents reported they gave an extra payment or a valuable gift to a nurse or a doctor, or they made a donation to the hospital, when looking for medical services. Therefore, the low level of directly experience petty corruption reported by the Eurobarometers seem to be the expression of Romanian misrepresentation of what corruption is. Often, in Romania, giving gifts or money for services apart from the usual fees is considered a sign of gratitude, and only extortion is recognised as corruption.

¹⁶ Complete data available on the website of Transparency International: <https://www.transparency.org/en/gcb/eu/european-union-2021/results/rou>.

¹⁷ R2G4P initiative, 2022, "Public Procurement Integrity in Southeast Europe: Mechanisms, Red Flags, and State-Owned Enterprises in the Energy Sector", available at: <https://seldi.net/publications/public-procurement-integrity-in-southeast-europe-mechanisms-red-flags-and-state-owned-enterprises-in-the-energy-sector/>

investigated in the Southeast Europe are from Romania. Therefore, both **bribery and favouritism/clientelism are the most important corruption risks for Romanian public procurement.**

In a more systematic way, most of the corruption risks identified in a public procurement process, in all stages, are present in Romania, as showed in the following table.

Public procurement phase	Public procurement process	Governance and corruption risk	Level of risk in Romania
Planning	The contracting authority explores and identifies the need to procure goods, services or works in line with policy priorities, and carries out market analyses and public consultations to better understand demand and supply.	Selection of unneeded, unfeasible or damaging procurement projects via undue influence, biased decision making or faulty impact assessments.	Medium risk
		Planning of wrong or unjustified goods, services or works, due to incomplete and/or inaccurate market analyses and public consultations.	High risk
Pre-tendering	The contracting authority develops a purchasing strategy and related documents defining the type of tendering procedure (open or restricted), technical and functional specifications, budget estimates, and selection and award criteria.	Unclear, restrictive or unnecessarily complex tender specifications, which are not aligned with identified needs, or are tailored to favour a specific bidder.	High risk
		Unjustified splitting of contracts to avoid stricter procedures or enhanced transparency and control mechanisms	High risk
		Unjustified selection of restricted tendering procedures to reduce competition.	Low risk
		Leaking of confidential information on tender design to favour a specific bidder	High risk
Tendering	The contracting authority publicly announces the tender, and bidders have a certain time period in which to prepare and submit their proposals, as well as any question related to the procedure.	Inadequate or opaque advertising of the tender, or unreasonable timelines for bid submission	Low risk
		Offering or extortion of facilitation payments or bribes to participate in tender procedure	Low risk
		Collusion among bidders to raise contract prices above normal market rates	Medium risk
		Submission of fraudulent bidding information	Medium risk
Awarding	The contracting authority assesses the submitted bids and awards the contract to the best proposal. If there are no complaints, the authority and the winning bidder sign the contract	Acceptance of non-compliant or inadequate bids	Medium risk
		Award of the contract to connected individuals or firms due to conflict of interest or favouritism	High risk
		Unfair handling of clarifications required to bidders due to favouritism	High risk
		Inefficient or unfair handling of complaints	Low risk
Implementation	The contractor executes the contract. Once delivery is completed, the whole process may be subject to an ex post evaluation by audit institutions.	Unjustified deviations from contract conditions and prices, resulting in delays and cost overruns.	Medium risk
		Violation of contract conditions, fraudulent reporting and invoicing, acceptance of sub-standard goods, works, and services	Medium risk

The health and education system, as well as large infrastructure and IT projects have been affected by corruption in public procurement according to communications and reports made by the National Anti-

corruption Directorate¹⁸ and the media. In addition, small infrastructure projects at local level have been affected by corruption because of the lack of oversight and media investigations show these vulnerabilities.¹⁹

An analysis conducted by the Government Transparency Institute for Transparency International Romania and the Romanian Academic Society in 2021 shows that, as a result of the COVID-19 pandemic and crisis, corruption risks associated with Romanian public procurement increased. The misuse of procedure types, especially the use of emergency procedures, for non-crises related products (products not related to the protection from the virus and the medical response) in 2020 and 2021, contributed to the increase of corruption risks.

The most common typologies of corruption in public contracting observed in Romania, according to the Romanian oversight authorities and other research²⁰ are:

- Conflicts of interests: conflicts of interest regulated by the law are identified by the National Integrity Agency and prevented in a large measure by an electronic system, but conflicts of interests among friends and distant relatives are identified by investigative journalists and can generate a special treatment for a client bidder;
- Bribery for tailored terms of references (often) or qualification requirements (less often);
- Using emergency procurement to limit the competition, without proper cause, mainly as a result of favouritism or clientelism;
- Collusion between bidders (often without the involvement of the contracting authority);
- Bribery or conflicts of interest visible in the evaluation of tenders, when not all bidders are treated equally, especially in the procedure of requesting and analysing clarifications to offers;
- Collusion and bribery at delivery (of goods, services or works), even if the awarding process for the contract was not corrupt. This is visible in contracts amendment during the implementation stage (changing technical parameters of the delivery) or even the existence of intentionally wrong, false or negligent receipt of deliveries.

[1.3] The potential for collective action in Romanian public contracting

In general, Collective Action is a collaborative approach to address corruption challenges, foster transparency and accountability and raise standards of integrity in the public and private sector, to improving the business environment and ensure fair competition in business.²¹ The Collective Action is usually based on the collaborative effort of stakeholders from government, civil society, and private sector, but its design is not following a strict methodology. It can be carried out in many ways depending on the specific problem and operational situation.

The potential of Collective Action in Romania is high, and a couple of initiatives from a few years ago represent good initial examples:

Transparency International Romania initiated a large advocacy campaign for business integrity, mobilising several partners in civil society for business integrity promotion in Bucharest, but also in other

¹⁸ <http://www.pna.ro/obiect2.jsp?id=342> and <http://www.pna.ro/obiect2.jsp?id=309>

¹⁹ <https://recorder.ro/video-dumnezeul-achizitiilor/>

²⁰ See the reports of the National Anti-Corruption Directorate: <http://www.pna.ro/obiect2.jsp?id=342> and <http://www.pna.ro/obiect2.jsp?id=309>. See also:

- Research conducted by Transparency International Romania: https://www.transparency.org.ro/proiecte/proiecte_incheiate/2010/proiect_3/Riscuri%20de%20coruptie%20in%20achizitii%20publice.pdf;
- R2G4P initiative, 2022, "Public Procurement Integrity in Southeast Europe: Mechanisms, Red Flags, and State-Owned Enterprises in the Energy Sector", available at: <https://seldi.net/publications/public-procurement-integrity-in-southeast-europe-mechanisms-red-flags-and-state-owned-enterprises-in-the-energy-sector/>.

²¹ United Nations Global Compact (2021), *Uniting Against Corruption: A Playbook on Anti-Corruption Collective Action*, <https://www.unglobalcompact.org/library/5896>

cities and regions, through several regional summits.²² The campaign established the Centre for Integrity in Business (CIB). This is a centre for resources through which Transparency International Romania promotes sustainable solutions for strengthening good governance based on ethical principles and seeks to develop partnerships between the public sector, private sector and civil society. The Centre constitutes a platform for active social dialogue between these three sectors; moreover, CIB also supplies the necessary tools to maintain this dialogue at a high level. During these last years, the Centre for Integrity in Business has launched an initiative to build a platform for business integrity and transparency in partnership with top companies from Romania. The platform is a network of companies and organisations, sharing the values and the objectives promoted by Transparency International Romania, meeting several times in order to discuss and put forward policy ideas for business integrity. This initiative was launched during a roundtable event in July 2013, which later resulted into a Pact for Integrity and Transparency in the Romanian business sector.²³

Another initiative has been initiated by Romanian Business Leaders in partnership with the Romanian Centre for European Policy and with support from Raiffeisen Bank within the project Partners for Integrity. They created the Romanian Clean Business Coalition.²⁴ The objectives of the coalition have been:

- To promote alignment with the standards of good business practice at European and global level;
- the adoption - by a large number of companies - of an ethical standard, in order to combat bribery;
- Self-regulation of the private sector by creating an ethical certification mechanism;
- To influence political decisions in the sense of adopting public policies that encourage honest business and marginalize onerous practices, educating company representatives and the general public on business ethics.

An interesting Collective Action approach is promoted by the Ministry of Justice, that organises four platforms for the monitoring of the National Anticorruption Strategy: the platform of governmental authorities, the platform of independent authorities (including the Court of Account and the National Integrity Agency), the civil society platform and the business platform. Representatives of the four platforms are cooperating for the monitoring of the anticorruption strategy, providing the Ministry of Justice with information, having regular meeting and organising, together, monitoring visits to selective institutions in order to draw lessons, identify and promote good practices in the implementation of the National Anticorruption Strategy.

In public procurement the cooperation between the public authorities and the private sector is needed and the quality of this collaboration is contributed to increased quality of the procured goods, services and works. There is our belief that only this collaboration can generate requests from public buyers that are well adapted to market capabilities and take profit of all the new products and technologies developed. However, the contribution of the civil society is key in monitoring the relationship between the public and private, so that it is based on mutual trust, but never on corruption or secret agreements. Moreover, civil society organisations can play an important role in bringing citizens to the table when public contracts are discussed, therefore leading the planning and implementation of these contracts towards supporting the public interest first and foremost.

For more trust, more dialogue guided by the Collective Action principles, is needed between different public institutions – including contracting authorities and oversight bodies, the private sector and civil society to ensure:

- that public buyers know the market well and can formulate realistic and non-discriminatory requests on behalf of contracting authorities, well adapted to the market: what and how the market can offer;

²² <https://www.transparency.org.ro/en/tiropage/center-integrity-business>

²³ <https://www.businessintegrity.ro>

²⁴ http://www.cleanbusiness.ro/?page_id=54

- the avoidance of unintended irregularities and misunderstandings raising the perception about corruption;
- early detection of integrity problems with financial consequences (for the budget and the private sector), including early detection of corruption if occurring.

Part 2 – A renewed Integrity Pact for Romania

[2.1] The Integrity Pact – historical background, concept, and core elements

The Integrity Pacts (IPs) have been developed in 1990s by Transparency International movement, perfected during the last 10 years and piloted in Romania previously with very good results. The IP is a type of project-based collective action initiative bringing together public authorities, civil society, and private sector, whose overarching goal is to contribute to the open, accountable, effective, and inclusive implementation of a contracting project. It includes four core elements:

- (i) a binding agreement;
- (ii) a set of activities aiming at rising capacity for integrity and anticorruption and early detection of risks;
- (iii) an independent monitoring mechanism led by civil society;
- (iv) mechanisms and/or procedures to report, address, and punish corruption, irregularities, and non-compliance with the initial IP commitments (as reflected in the binding agreement).

[2.2] Integrity Pacts in Romania – past implementations, impacts, challenges, and lessons learned

The National Anti-corruption Strategy 2021-2025 encourages civic oversight over public procurement, which represents the first step in formulating a comprehensive policy based on an effective partnership for Collective Action for procurement integrity in Romania, using the Integrity Pacts.

Therefore, IPs have been implemented in a pilot initiative in Romania, with EU support, between 2016 and 2022. Transparency International Romania and the Institute for Public Policy (IPP) monitored three projects of importance for Romanian development and strategy in the EU funding period 2014-2020 where IPs have been signed. The three projects are: the project of cadastre in rural areas (officially: The increase of coverage and registration of real estate in Romania's rural areas on the Integrated Cadastre and Land Register System) implemented by the Romanian Agency for Cadastre and Land Registration, the project: Integrated School Management System, implemented by the Ministry of Education and the project: E-culture: the digital library of Romania, implemented by the Ministry of Culture. The Romanian Academic Society was the independent monitor for IPs signed by the Managing Authority for the Operational Programme Administrative Capacity for the communication campaigns of the Operational Programme and other promotion activities of the programme.

The monitoring work had benefits across all stages of the process. In the planning and pre-tendering phase, the monitor contributed to the inclusion of better selection criteria in the tendering documents and penalties for delays in implementation in the draft contract. Moreover, observing low participation in the tenders and a lack of interest from companies, the monitor helped the contracting authority carry out a comprehensive market consultation that resulted in a marked increase in the number of bidders.

The IP piloted in Romania also had benefits in the tendering and awarding phase, made particularly sensitive by the high risk of conflict of interest and revolving doors among land administration officials and private firms working in the field. To mitigate these risks, the monitors recruited an investigative journalist to check the bidders' and public officials' backgrounds for potential cases of favouritism. In addition, as land registration in Romania is subject to the approval of local mayors, the monitors participated in meetings between these and the cadastre agency to protect the process from political biases.

The IP monitors also helped revise potentially restrictive and ambiguous terms of reference in the tender. In the implementation phase, the monitor helped smooth disagreements regarding the quality of the work, ensuring a no-cost extension to complete the project.

The pilot has shown that mutual understanding among different actors about the social and economic benefits of a specific project and the IP itself, as well as genuine willingness by contracting authorities to ensure integrity and to engage with citizens, are essential preconditions for the successful implementation of future IPs.

On the other hand, an important result and lesson from the project is that the civic independent monitor was an important stakeholder in the contracts implementation, ensuring a good dialogue of the contracting authorities (especially the Ministry of Culture) and contractors. This existence of the IP and the presence of the civic independent monitor allowed the parties to focus on the public interest and not to be blinded by legalistic issues in their contract and working relationship. This allowed for a better implementation of contracts and less conflicts between parties.

After seven years of advocacy activities, we are confident that Romanian institutions are now more open to civic monitoring of public procurement in order to ensure their relevance for the general/public interest and their integrity. Moreover, the communication and activities conducted by Transparency International Romania with representatives of the business sector allow us to be confident that bidders are open to the use of more integrity standards (governance standards).

The 2021 study of the Government Transparency Institute (GTI) shows that, at least in Romania, IPs performed as intended based on the corruption indicators used. GTI tested the differences between public entities that participated in IP and the ones, that did not. Specifically, IP participants rank, on average, lower on several corruption risk indicators compared to others. This finding could have policy relevant consequences in extending the scope of the IP towards other public entities in order to reap the benefits of increased external oversight that may lead to improved procurement results for the public, especially during times of emergency.

In the last months, additional recommendations have been formulated at the end of the project, concerning the use of Open Contracting Data Standards²⁵ in order to ensure better transparency during the contract implementation phase and the reform of the performance guarantee system to ensure better accountability of contractors. The advocacy related to these recommendations is continued by Transparency International Romania.

We must add the fact that the National Agency for Public Procurement is promoting IPs as a good practice and the Agency, itself, signed a Memorandum of Understanding and a Monitoring Agreement with Transparency International Romania. The National Anticorruption Strategy and the National Agency for Public Procurement represent important starting points in extending the use of Integrity Pacts.

However, there are some limits to the Integrity Pacts piloted in Romania: they are not mandatory for bidders, and they do not cover subcontractors. The access to the tender evaluation phase of the independent monitor in the Integrity Pact is also limited, being allowed only after contract awarding. The independent monitor has direct access to procurement and tender preparation and contract execution, but it can only assess ex-post the tender evaluation process.²⁶ This limits the monitor capacity to raise early the flags on risks or irregularity and limits the IP preventive impact.

[2.3] The global Integrity Pact standard

Recognising the lessons learned, the wealth of knowledge and experience accumulated in the past two decades, as well as recent developments in the public procurement and anti-corruption policy fields, Transparency International, in consultation with its national Chapters and partners, has developed a blueprint for future Integrity Pacts. Reflecting and consolidating all the core elements and good practices

²⁵ <https://standard.open-contracting.org/latest/en/>

²⁶ Ibid.

that made previous IP initiatives successful, the purpose of the blueprint is to foster more uniform implementation while allowing for flexibility and innovation.

From the perspective of this blueprint, the aim of the IP is to mitigate bad governance and corruption risks in public procurement projects that hold a strategic policy, financial, and social value and that as such would deserve an additional layer of reassurance through collective action and external monitoring by civil society. It can be applied to any type of procurement project involving one or more competitive tendering processes, based on the strategic priorities of governments and other stakeholders in specific sectors and policy areas.

The blueprint provides guidance on the content of the IP, as a public agreement, comprising a public integrity pledge, a corporate integrity pledge, a civil society monitoring agreement, as well as dispute resolution mechanisms, sanctions and incentives. The provisions aim to embed transparency, accountability, integrity, and inclusiveness in a public procurement project, and include baseline commitments and activities, as well as more ambitious undertakings that could be linked to broader collective action initiatives or reform efforts.

Components and content of an Integrity Pact			
Public integrity pledge (contracting authority)	Corporate integrity pledge (suppliers)		
<u>Baseline commitments</u> <ul style="list-style-type: none"> - Regulatory compliance - Reporting of irregularities - Disclosure of <ul style="list-style-type: none"> • Information on the procurement • Payments to intermediaries • Private interest & assets - Reporting of conflict of interest - Internal whistleblowing system 	<u>Baseline commitments</u> <ul style="list-style-type: none"> - Regulatory compliance - Reporting of irregularities - Disclosure of <ul style="list-style-type: none"> • Beneficial ownership • Payment to intermediaries • Political engagement activities - Submission of internal compliance programmes - Establishment of specific integrity measures 		
<u>Higher-level commitments</u> <ul style="list-style-type: none"> - Adoption of open contracting data standards - Development of internal control systems - Enhanced consultation of private sector - Engagement of affected communities. 	<u>Higher-level commitments</u> <ul style="list-style-type: none"> - Corporate integrity / ESG reporting - Adoption / certification of compliance standards - Sub-contractors and supply chains integrity - Inclusive contract execution 		
Civil society monitoring agreement (CSO)	Dispute resolution	Sanctions	Incentives
<ul style="list-style-type: none"> - Review of the contracting procedure - Access to information - Handling of irregularities - Withdrawal from the monitoring, - Management of conflicts of interests - Technical assistance for IP commitments - Transparency and social accountability 	<ul style="list-style-type: none"> - Multi-stakeholder grievance mechanisms -(Inter)national arbitration 	<ul style="list-style-type: none"> - Fines, compensation - Exclusion from procurement process - Naming and shaming 	<ul style="list-style-type: none"> - Preferences in contract award - Whitelists - Public awards & recognition

In particular, besides including revised provisions for contracting authorities and civil society monitors, the IP model seeks to foster a culture of openness and integrity in suppliers' operations and relationships with other stakeholders. Through technical assistance, capacity-building, incentives, and multi-stakeholder dialogue under the IP, firms can enhance their corporate reporting practices,

strengthen their compliance programme, and build the integrity capacity both internally and among sub-contractors, business partners, and supply chains.

It is important to note that the aim of the IP is not to replace existing laws and regulations or to duplicate oversight and law enforcement mechanisms, but rather to enhance their responsiveness and effectiveness. Its content should be based on a country's legal and policy frameworks, the targeted project, and the relevant sector, identifying what could be achieved by either correctly enforcing existing regulations, or by including voluntary undertakings, which should ideally be in line with international obligations (e.g., UNCAC) and recognised best practices.

The blueprint also provides a revised methodology for the implementation of the IP as a collective action initiative encompassing three broad phases, namely initiation, preparation, and execution. However, given the wide variety of public procurement operations, the purpose is not to provide a one-size-fits-all recipe for IP initiatives, but rather to guide practitioners through all the key decision-making points and implementation arrangements they entail, providing concrete examples from past initiatives.

Phases of an Integrity Pact initiative

Initiation – One or more initiators identify, explore and discuss the need for implementing an IP and take all the necessary steps for its application to one or more public procurement projects. This includes deciding on the scale of the initiative, selecting procurement projects based on a policy-oriented and risk-based approach, defining the desired outcomes, developing budget estimates, identifying sources of funding, selecting civil society facilitators / monitors, and defining governance arrangements. These steps are not necessarily sequential and may happen in parallel or in reverse order.

Preparation – The facilitator, in collaboration with the contracting authority and based on inputs from other relevant stakeholders, develops the IP and gets the participants (contracting authorities and bidder) to sign it. The key elements of the IP (public integrity pledge, corporate integrity pledge, civil society monitoring agreement, dispute resolution, sanctions, incentives) can be formalised through a single multi-party agreement or through a combination of different documents, such as bi-lateral agreements and unilateral declarations.

Execution – The contracting authorities and the bidders implement the commitments and activities foreseen in the IP, and the civil society monitor, besides providing them with advice and technical assistance, reviews the procurement procedure(s), giving recommendations for their improvement, and carries out activities to foster transparency and citizen engagement around the project. Three aspects are crucial – strategic communications to strengthen trust and openness, management of potential risks, and monitoring, evaluation, and learning (MEL) to track the progress of initiative and evaluate its impacts.

The way in which these phases will unfold will depend on the circumstances and type of targeted project. In general, IP initiation and preparation, which may overlap, should take during the procurement planning stage. The initiation and preparation phase may also partially overlap and be subject to an iterative process, as the public agreement formalising the IP will have to contain the specific commitments and activities through which participants will seek to meet the agreed-upon objectives for the initiative.

The IP is first signed by the public authority and the civil society monitor as early as possible in the process, to allow for monitoring activities to begin ideally during planning stage, or no later than in the pre-tendering stage. Potential bidders should be notified about the IP before the publication of the tender (e.g., through a Prior Information Notice) but not later than that. In some cases, implementers may also decide to draft the corporate integrity pledge in connection with market consultations, to allow potential bidders to provide input on commitments and activities.

The IP, which is included in the tendering documents, is signed by bidders upon submission of their proposals (or expression of interest for the bid, if applicable) and remains in force for the winning bidder. Signature of the IP should be mandatory (i.e., as a requirement to participate in the bid) to ensure a level playing field. In countries where this is not allowed by procurement regulations and signature by bidders can only be voluntary, implementers may devise incentives, such as whitelists, to encourage all bidders to sign the IP and comply with it.

Upon conclusion of the procurement project and related monitoring, it will be important for participants to collaboratively evaluate the overall impact of the initiative, reflecting on successes, challenges, unintended consequences, and lessons learned, and providing recommendations for the improvement of future procurements. This phase could be tied to formal ex-post evaluation and audit of the procurement project (when applicable), as information accumulated and generated through the IP may be relevant and useful to the assessors.

[2.4] Adapting the global IP standard to Romania

2.4.1. The role of IP in Romania

Based on the experience of implementing IP in Romania until now and the results presented above, the role of the IP in the Romanian context is multi-fold. At the level of each project/procurement procedure/contract, the IP:

- is a key initiative to build trust among the participants to a public procurement procedure, facilitating a constructive dialogue, aiming at best serving the public interest while respecting the legal and international integrity standards;
- facilitates to preventing irregularities and bottlenecks in the public procurement procedure and contract implementation, allowing the civil society monitor to make recommendations for the improvement of selection criteria and other key elements of the terms of references;
- increases the transparency of the procurement process and the involvement of the private sector in supporting the contracting authorities, both through the publication of monitoring reports and through the support provided to organizing market and public consultations before the tendering phases of the procurement procedures;
- contributes to the capacity building for monitoring and implementation of integrity rules and standards, at the level of contracting authorities, bidders and contractors;
- ensures that corruption and integrity related risks are identified, monitored and managed for each public procurement procedure and public contract, involving all relevant stakeholders in the risk management actions.

The IP has also a role at systemic level in Romania. It contributes to the development of integrity promotion and anti-corruption based on Collective Action and a more systemic involvement of the private sector and civil society in the public procurement in Romania. Moreover, the IP encourages the development of the corruption risk management practices, the identification of main risks related to the policy framework and the main capacity gaps within contracting authorities and bidders/contractions and allows for the formulation of new policy initiatives for better policies and capacity building activities.

2.4.2. The role of the civil society monitor

The involvement of a civil society organisation (or a consortium/partnership of organisations) as civil society monitor is an essential element of an IP. The role of the civil society monitor is twofold

- as proper monitor, the civil society monitor reviews and assesses the compliance of the procurement process and related decision-making processes. It also supports the implementation of commitments and activities by contracting authorities, bidders and contractors by providing technical assistance, and supports the transparency up the procurement process by facilitating information disclosure and citizen engagement;
- as facilitators, the civil society monitor may enhance stakeholders engagement and institutional cooperation in relation with the monitored procurement and investment process.

The civil society monitor plays a key role in lending credibility and reassurance to the contracting authority, bidders, contractors, and other stakeholders, by demonstrating that an IP can achieve its intended outcomes. To do this effectively, the monitor must meet specific criteria related to capacity and independence. It should also form a team with the right balance of internal staff and external experts to manage the initiative, handle the technical aspects of the procurement, and respond to the needs and concerns of various stakeholders.

Although monitoring by government bodies or private firms is not entirely out of the question, it often raises concerns about impartiality and reputational risk. Such arrangements also contradict the multi-stakeholder nature of the IP.

Within the IP, the civil society monitor is given significant responsibilities. They are granted access to detailed information and communications about the procurement process—including some not publicly available—in order to observe the conduct of public and private actors and verify that decisions are made in the public interest. Therefore, how civil society monitors are identified and selected is critical.

There is no universal method for selecting monitors, but in the Romanian context, an open and competitive process is essential. Therefore, the civil society organisation must meet clear criteria related to capacity and independence in order to serve effectively. Meeting these criteria helps ensure the monitor can provide fair and objective oversight. Thus, it is essential to prioritize transparency and accountability, and to clearly justify the choice of the monitoring organisation.

Capacity criteria	Independence criteria
Technical expertise (procurement, good governance, specific sector for the planned investment monitored)	Clear and transparent governance structure
Project management	Annual reports on organisation's operations, programmes, projects, activities published
Communication and stakeholder management	Transparent financial management and funding sources

These same principles apply when assembling the monitoring team. While in simpler or smaller projects the monitoring organisation own staff might be able to handle the technical monitoring, most procurement processes require broader expertise. In such cases, the monitor can bring in external technical experts or consultants from private organisations to supplement its capacity, or outsource specific technical tasks. This allows the monitor to focus on other key areas such as public communication, data transparency, and citizen engagement.

When external experts are involved, it is important to establish clear communication and accountability channels between the experts and the civil society organisation contracting them, to ensure that all parties remain answerable to the IP's participants and stakeholders.

In some situations, a collective monitoring approach may be more appropriate. This can involve a consortium of NGOs, including organisations with expertise in areas relevant to the investment—such as environmental issues.

Regardless of the structure, the monitoring team should consist of individuals with strong reputations for independence and integrity, and access to the necessary professional knowledge. To safeguard the IP's credibility, it is crucial that no team member has any connection to interested parties in the procurement process. Clear rules must be in place to prevent or properly manage conflicts of interest among those involved in monitoring.

2.4.3. The form of IP in Romania and signature timing

Taking into account the procedures regulated by the Law on public procurement and its implementation norms, as well as the experience of implementing IP, in Romania it consists of two parts: a Monitoring Agreement between the contracting authority and the monitor from the civil society and a declaration of joining the IP that is signed by bidders or contractors.

Figure 1. Form of the Integrity Pact for Romania



Therefore, the following elements should guide the planning – form and timing – of the IP form in Romania:

- A Monitoring Agreement of the IP should be signed between the contracting authority and the monitor from the civil society as soon as the contracting authority decided to use the IP and a monitor was selected or came forward for the implementation of the IP.
- The Monitoring Agreement can be signed even prior to the selection of the project/procurement procedure representing the object of the IP, as the pact can support the project selection based on corruption or integrity related risks, the interest for the public etc. It is best to sign the Monitoring Agreement just before the beginning of the needs assessment phase prior to a project/procurement, when the contracting authority decides what will be procured and the main characteristics of the final products/services/works procured. However, the Monitoring Agreement can be also signed after this moment, any time during the procurement procedure, but the commitments included in the IP, as well as its benefits are decreased the later the agreements is signed;
- The Monitoring Agreement of the IP can be amended to add more monitors, in a consortium/partnership of organisations that can include business association, to strengthen the Collective Action dimension;
- The Monitoring Agreement of the IP should be amended to specify the project/procurement procedure representing the object of the IP, if it was not defined from the beginning. This amendment should be done as soon as possible after the project selection;
- The Monitoring Agreement of the IP must include clauses on the rights, obligations and responsibilities of the contracting authority, the monitor from the civil society, the bidders and

contractors as well as an annex representing the declaration of joining the IP, for bidders and/or contractors;

- The declaration of joining the IP, for bidders and contractors must clearly specify that the bidder and/or contractor signing acknowledges and will comply with provisions of the Monitoring Agreement and the rights and obligations provided for in national and European legislation, as well as those resulting from international standards, as they are specified in the Monitoring Agreement;
- The Monitoring Agreement and its annex representing the declaration of joining the IP, for bidders and/or contractors must be published together with the procurement documents as annexes to the contract notice published on the procurement electronic system, and the European Union's e-procurement platform (TED database);
- The declaration of joining the IP, for bidders and contractors should be opened for signatures for bidders and contractors at any moment of the procurement procedure or contract implementation, after the publication of the contract notice.

Signing the declaration of joining the IP cannot be mandatory for bidders and/or contractors in Romania, therefore it is important that the Monitoring Agreement and the declaration of joining the IP include a clear and convincing rationale for the IP, its role, benefits and objectives. It is recommended to repeat this short presentation in the terms of references for the procurement.

In this context, the IP should be clearly presented, including the results of prior IPs and its expected results of the proposed IP, during the market and public consultations regarding the project/procurement, if organised.

Moreover, after the contract awarding moment, the civil society monitor should approach directly the contractors to present the IP and future steps, the commitments and expected benefits for the private sector. Economic operations that did not signed the declaration of joining the IP as bidders, but have been awarded the contract should be encouraged to sign the declaration.

The IP can be continued and implemented even if the bidders and contractors do not signed the declaration of joining the IP, as the contracting authority shall ensure the transparency of the procurement process and contract implementation for the monitor. However, both the monitor and the contracting authorities should make efforts to convince the contractors to sign the IP, emphasising the benefits of the IP for businesses.

2.4.4. The independent monitor mechanism for IP in Romania

The Monitoring Agreement must specify the procurement procedures and phases that will be monitored, adapted to the moment of the agreement signature. Ideally, the monitoring should take place during:

- Risk assessment and project selection for the IP implementation;
- Needs assessment for the definition of the procurement main characteristics, the phase when the feasibility studies and other similar documents are prepared;
- The pre-tendering phase, when the contract notice, technical specification and selection criteria are developed;
- The tendering phase, when the contract notice is published, bidders can ask for clarifications and the contracting authority must provide the clarifications required;
- The evaluation of bidders' proposals;
- The awarding and contracting phase;
- The contract implementation/execution phase.

Access to project/procurement phases – However, in Romania, the current law of public procurement strictly limits the persons that can participate, in any way, to the evaluation of bidders' proposals. Nobody, but the members of the evaluation committee, is allowed to take part, observe or assist to the evaluation, in order to preserve and protect the independence of the evaluation committee. Therefore, monitoring the evaluation of bidders' proposals can only be done post-factum, by revising the documents of the committee resulting from the evaluation process.

According to the Romanian legislation this process is well documented, including minutes for all the meetings of the evaluation committee and all the steps of the proposals' evaluation. Immediately after the publication of the contract award notice, before contract signature, the contracting authority should provide the civil society monitor with the documents resulting from the evaluation of bidders' proposals and allow a review of these documents before the procurement contract is signed.

Access to information – For all the other phases monitor, the monitoring mechanism must include the right of the civil society monitor to receive and review documents, to request additional documents and information, to participate in meetings, to formulate recommendations (in writing and during meetings), to receive information on how the recommendations are taken into consideration by the contracting authority and/or contractors.

The monitor can have access to all documents prepared during the pre-tendering phase, that are confidential. To ensure this access, the monitor and all its experts, involved in the IP implementation, should sign a clear confidentiality declaration.

Moreover, the monitor should have access to all documents and information relate to the contractors work during project implementation, the deliverables submitted to the contracting authority, the payments made by the contractors to subcontractors and by the contracting authority to contractors.

The monitor must be able to check the products of contract implementation, including by conducting site-visits both announced and incognito.

Monitoring reports – Interim reports should be prepared by the monitor and published, to ensure that the IP is contributing, as planned, to raising trust in public procurement. The first monitoring report can be published after the needs assessment phase of a contracting project, if it is covered by the IP, focusing on how the needs assessment answers the expectations of the public, ensures protection of vulnerable groups, promotes sustainable development etc.

As part of the tendering preparation is confidential, an interim report about tendering preparation can only be published after the publication of the procurement notice. Also, another interim report, on the tendering process, proposals received, the evaluation process can be published after the publication of the contract awarding notice. During contract implementation, publishing interim reports at least every six months is recommended.

A final report should be drafted and published as soon as the monitor's work is concluded.

The reports should include observations, occurrence of risks and irregularities, requests of access to information and whether or how these were addressed, recommendations for the contracting authorities, recommendations for the contractors and, if the case, more systemic recommendations on contracting procedures and projects planning.

All reports should be drafted by the independent monitor, deciding on the information and data to be published. However, before publishing the report it is highly advisable that the monitor consult the other parties of the IP: the contracting authority and, after the procurement contract is signed, the contractor(s). The consultation process for the monitoring reports should be included in the monitoring agreement.

Corruption, irregularities, violations of the IP – The monitoring mechanism should feature a channel to receive and act on reports of corruption, irregularities, and violations of the IP. In principle, any such report must be first clarified with the contracting authorities and/or contractors (after the procurement contract is signed), but in case these are not addressed, the monitor must be allowed to bring them directly to the competent authorities for further investigation and to publish reports on the observed corruption acts, irregularities, and violations of the IP.

2.4.5. The commitments part of the IP in Romania

The commitments areas for IPs in Romania are following the ones proposed in the IP global standard:

- Corruption prevention and detection
- Procurement governance and administrative capacity
- Transparency and data disclosure
- Business integrity, engagement, and fair competition
- Social accountability

But the specific commitments recommended are adapted to the challenges specific to Romania. On the other hand, the IP should be conceived as a flexible tool, and the parties: independent monitor, contracting authority, contractors should be able to add commitments to the IP if they consider them useful for the specific objectives and/or interventions set out to improve the outcomes of the selected contracting project(s).

Public integrity and corruption prevention – As a minimum element, the IP must include **a pledge to refrain from bribery, collusion, conflict of interest and other forms of corruption and to promote institutional transparency**, by all the public officials involved in the contracting procedure. The monitoring agreement should include a commitment to refrain from any illegal act representing a corruption offence or an administrative infringement associated with corruption. It should also include the pledge to promote institutional transparency according to Romanian legislation on access to information, transparency of assets and interests, transparency of lobby meetings, open data etc. This includes also a pledge that all persons involved in the procurement process will sign a declaration of absence of conflict of interest and to disclose the private interests and assets belonging to them (and to their family members), according to the Romanian law. Moreover, disclosure of lobby meetings using the Unique Register of Interest Transparency (RUTI – ruti.gov.ro) should be also included in the pledge of the IP.

Legal obligations include the creation of robust, secure and reliable channels for employees to report wrongdoing (whistleblowers) and the adoption of institutional anti-corruption policies and procedures, according to the Romanian law on the protection of whistleblowers (Law no. 316/2022) and the Romanian regulation on internal management control (Prime Minister Order no. 600/2018).

As part of their commitment, the independent monitor should (1) verify that the anti-corruption and integrity pledge is respected and (2) offer support to the contracting authority in managing:

- Identification and reaction to conflicts of interests;
- Identification and reaction to corruption situations/acts;
- Identification and reaction to situation of collusion;
- Whistleblowing channels and reports;
- Development and implementation of the institutional anti-corruption policies and procedures

Moreover, the IP must include the obligation of the contracting authority to disclose to the monitor, either proactively or upon request, any payment given to intermediaries or other actors engaged by the contracting authority to support the preparation of the bidding procedure.

Additional commitments for integrity and corruption prevention can be included in the IP in Romania, including:

- Implementation of international standards – Contracting authorities, with the support and advice of the monitor, could review their internal corruption prevention and detection practices and fill identified gaps by implementing international frameworks in the field, such as the OECD Integrity Framework for Public Investments²⁷, and the Committee of Sponsoring Organisations of the Treadway Commission (COSO) Framework on Internal Control.²⁸
- Proactive identification of red flags – The monitor could undertake an in-depth review of all the data and documents related to past and present procurements to detect red flags of corruption. In this way, the monitor could provide “assurance” that no corruption has taken place. However, given that it is a very resource-intensive task and depends on the quality and comprehensiveness of available information, it should not be undertaken unless the capacity and resources are in place and there is clarity regarding the role and limitations of the monitor.

Procurement governance and administrative capacity – The IP must include commitments and activities to enhance the governance (efficiency, effectiveness) of the procurement process and, more in general, the administrative capacity of the contracting authority in managing public investments and contracting projects. The contracting authority must **commit to abide by the law and adequately implement and/or enforce applicable regulations on public procurement and the IP must include a pledge to refrain from acts associated with irregularities in public procurement**. In turn, the civil society monitor verifies that this is done effectively, according to the public interest, and in line with objective technical considerations rather than political ones.

Taking into account the challenges specific to Romanian procurement, the IP must include the monitor commitment to:

- commitment to conduct a need assessment on the capacity of the contracting authority to conduct procurement procedures;
- support the contracting authority to rise its capacity to conduct procurement procedures, mainly by providing mediation for access to dedicated services (training and technical assistance) offered by academia, think-thanks, consultancy. If the monitor staff and experts have the required capacity and competences, they can offer directly the capacity building services to the contracting authority;
- support the contracting authority to implement mechanisms for business engagement, such as market consultations, to engage in regular dialogues with suppliers and business associations to present procurement objectives, ensure a correct understanding of the markets, and develop more realistic and effective tender specifications. The monitor should ensure the transparency and frailness of these mechanisms.

On the other hand, the contracting authority should commit to cooperate with the monitor, allocate resources (including human resources) to capacity building activities and business engagement mechanisms.

Additional commitments for procurement governance and administrative capacity can be included in the IP in Romania, including:

- Implementation of international standards on public contracting – The contracting authority could work with the monitor to fill gaps and loopholes in their internal practices by benchmarking them to international standards and recommendations on public investment management and public procurement. Some of the most relevant include, for example, the Methodology for

²⁷ OECD (2016), *Integrity Framework for Public Investment*

²⁸ <https://www.coso.org/SitePages/Home.aspx>

Assessing Procurement Systems²⁹ developed by a consortium of national and international organisations, and the OECD Recommendation on Public Procurement.³⁰

- **Real-time audits** – The contracting authority and the monitor could involve audit institutions to assess the performance of the procurement process and compliance with applicable laws and regulations in real time or upon conclusion of a specific phase of the procedure.

Transparency, information disclosure and open contracting data – The IP must include **commitments and activities to ensure proactive, adequate and timely transparency, data disclosure, and access to information on the contracting projects in all its stages**. A combination of a push system and a pull system is preferable. The push system means specifying in advance the information the monitor can have access to, in an annex to the monitoring agreement, the pull system means providing information and documents to the monitor when required³¹. The experience of implementing the IP in Romania shows it is a good practice to have a list of all documents and information that should be provided to the monitor and the moments/timing (within the procurement process) when the information should be provided by the contracting authority. Thus, using the push system, the monitor receives the information needed in a timely manner. Moreover, if the contracting authority is not proactive in implementing the IP, the monitor can make use of the legal obligation specified in the monitoring agreements regarding all documents mentioned. However, in order to ensure that the monitor has access to information in unexpected situations, especially during the implementation of the procurement contract(s) monitored, the IP (monitoring agreement and bidders/contractors declaration of joining the IP) should include the possibility of the independent monitor to request documents and information additional to the ones mentioned in the annex to the monitoring agreement.

Additional commitments for transparency, information disclosure and open contracting can be included in the IP in Romania, including:

- **Adoption of open contracting data standards** – The monitor could facilitate the adoption of the “Open Contracting for Infrastructure Data Standard” (OC4IDS).³² This is a combination of the Open Contracting Partnership’s Open Contracting Data Standard (OCDS)³³, which provides information on all stages of the contracting process in a machine-readable format, and the Infrastructure Transparency Initiative (CoST)’s Infrastructure Data Standard (IDS)³⁴, a list of data points that includes both proactive and reactive disclosure over the life cycle of a public infrastructure project.
- **Development of a platform to explore contracting project data** – The monitor, with support from the contracting authority, could facilitate the transfer of the data into a user-friendly platform allowing to monitor the project or provide information or feedback about it. It can also contain information on the procurement system and its performance, as well as data points that ensure the visibility of the flow of public funds and allow stakeholders to understand government priorities and spending – for example by publishing complementary budget and spending data.

Business integrity and engagement – The IP should aim to foster a culture of integrity, proactive engagement, and fair competition among private firms taking part in the monitored contracting project. Therefore, the IP must include the **anti-bribery and anti-collusion pledges of the bidders and contractors signing the declaration of joining the IP**. The bidders/contractors declaration of joining the IP should include a commitment of **all the economic operators (firms) participating in the contracting procedure, including the subcontractors**, to refrain from any illegal act representing a

²⁹ <https://www.mapsinitiative.org/>

³⁰ OECD (2021), Recommendation of the Council on Public Procurement, <https://www.oecd.org/gov/public-procurement/OECD-Recommendation-on-Public-Procurement.pdf>

³¹ Blomeyer & Sanz (2015) – Integrity pacts learning review (EU), https://baselgovernance.org/sites/default/files/2020-04/2015_IntegrityPactsProcurement_LearningReview_EN_v2-3.pdf

³² <https://standard.open-contracting.org/infrastructure/latest/en/>

³³ <https://standard.open-contracting.org/latest/en/>

³⁴ <https://infrastructuretransparency.org/resource/cost-infrastructure-data-standard/>

corruption offence or an administrative infringement associated with corruption and irregularities in public procurement.

Economic operators with more than 50 employees have the legal obligation to **provide channels for employees to report wrongdoing (whistleblowers)**. In addition, the smaller economic operators signing the declaration of joining the IP should allow the monitor to establish and manage for them a robust, secure, and reliable channel for whistleblowers and should accept assistance from the independent monitor to develop a whistleblowing procedure, at least for the project/contract covered by the IP.

In addition to the legal provisions, the economic operators signing the declaration of joining the IP must **disclose to the monitor, either proactively or upon request, any payment given to intermediaries** or other actors engaged by the contracting authority to support the preparation of the bidding procedure.

Moreover, considering the legalistic culture in Romanian administration and business, the declaration of joining the IP should include the commitment of contractors (bidders that are awarded the public procurement contract(s)) to prove the prior existence or to develop corporate anti-corruption and anti-bribery compliance programmes.

As part of their commitment, the independent monitor should (1) verify that the anti-bribery and anti-corruption pledge is respected and (2) offer support to the contractors signing the declaration of joining the IP for the:

- Identification and reaction to conflicts of interests;
- Identification and reaction to corruption situations/acts;
- Development or management of whistleblowing channels and reports;
- Conduct a need assessment on the instruments for business integrity and corporate governance and identification of gaps;
- Development and implementation of the corporate anti-corruption and anti-bribery compliance programmes.

Additional commitments for business integrity and engagement can be included in the IP in Romania, including:

- Adoption of international standards on business integrity and corporate governance – Contractors, with the support of the monitor, could review their internal corruption prevention and corporate governance practices and fill identified gaps by implementing international standards and best practices, such as Transparency International's Business Principles to Counter Bribery³⁵, the OECD/G20 Principles of Corporate Governance³⁶, and the UNODC's Guide for Anti-Corruption Ethics and Compliance Programmes.³⁷ This commitment could also be complemented with integrity trainings for company representatives, as well as independent certification or assurance of the programme.³⁸
- Environmental, Social, and Governance (ESG) reporting and disclosure of corporate integrity data – Contractors could work with the monitor to provide comprehensive reporting of their ESG performance, for example according to the Global Reporting Initiative Framework.³⁹ They could also commit to disclose key corporate integrity data according to Transparency International's methodology for Transparency in Corporate Reporting (TRAC)⁴⁰, which includes:
 - o Anti-corruption policies and compliance programmes
 - o Beneficial ownership / Ownership structure
 - o Country-by-country reporting / financial statements

³⁵ <https://www.transparency.org/en/publications/business-principles-for-counteracting-bribery>

³⁶ <https://www.oecd.org/corporate/principles-corporate-governance/>

³⁷ https://www.unodc.org/documents/corruption/Publications/2013/13-84498_Ebook.pdf

³⁸ This could be based on Transparency International's Assurance Framework for Corporate Anti-Bribery Programs – <https://www.transparency.org/en/publications/assurance-framework-for-corporate-anti-bribery-programmes>

³⁹ <https://www.globalreporting.org/>

⁴⁰ <https://www.transparency.org/en/publications/transparency-in-corporate-reporting-assessing-emerging-market-multinat>

- Corporate political engagement – lobbying meetings, political donations, gifts

Social accountability and citizen engagement – the IP should aim for a strong social accountability, and, whenever possible, engagement of affected communities by the public investment. Therefore, **the commitments of the monitor should include promoting constructive multi-stakeholder dialogue, building citizen support for the monitored project, and create feedback loops essential to improve the monitoring of the project.** The requirements for the monitor include:

- the **publication of the monitoring reports** (mentioned in section 2.4.3);
- organising **public consultations** on the project planning and implementation with affected communities and/or representatives of the main stakeholders of the monitored project;
- when possible, organising **on-site visits** to assess the progress of contract execution with participation of representatives of affected communities and/or representatives of the main stakeholders of the monitored project

The monitor could also:

- carry out social audits to empower communities to review the implementation of the contract and provide recommendations for future improvement.
- providing trainings for citizens to effectively cover the monitor role, especially if their representatives participate to on-site visits and consultations with the contracting authority and/or the contractors.

2.4.6. Managing breaches of the IP in Romania

The IP must include provisions for involved stakeholders to report and address corruption, irregularities, and breaches to the IP. However, the emphasis of the IP is on constructive resolution of problems through reliable dispute resolution mechanisms.

As a minimum requirement, the IP should provide a direct channel for any party involved, including affected communities and citizens, to report any suspicion of irregularity to the monitor. Any such report should be first clarified among parties through amicable negotiation, and the monitor may ask them to take measures to solve the problem. If the measure is not adequate, or if no measure is taken at all, then the monitor should be able to report directly to competent authorities to take on the case.

Including sanctions for the IP parties, in addition to the ones provided by the law, proved to be difficult within the Romanian legal framework. In this context, the most important sanction specific to the IP is the withdrawal of a party.

Withdrawal – The monitor must have the right to withdraw from the IP under certain conditions that do not allow it to adequately perform its role. The most important grounds include restriction to or denial of access to information, obstruction of monitoring activities, and inactivity upon serious irregularities, proved corruption, and violations of the IP. As withdrawal from the IP sends a powerful message to the public and is a measure of last resort, its conditions must be clear to all participants, and there must be procedures to reach such decision.

The contracting authority and the contractor(s) can also withdraw from the IP. In this case, the party in cause should publish a report/declaration on the reasons for the withdrawal and the monitor should also publish a report on the incident generating the withdrawal.

2.4.7. Incentives for IP implementation and compliance

As mentioned earlier, the IP is an initiative that emphasises positive collaboration rather than punishment. Accordingly, practitioners are strongly recommended to consider the inclusion of

incentives to motivate and reward effective compliance with IP commitments by public officials and firms, as an alternative to sanctions.

Potential incentives, which should be linked to the attainment of reputational benefits, may include preferences in contract award – that are not feasible in Romania, inclusion on whitelists, and recognition and awards for adoption and implementation of best practices.

Considering the EU regulation and the way it is implemented in Romania, preferences in contract awarding proved not feasible in Romania, as the type of awarding criteria are provided by the law.

On the other hand, whitelists have been used in Romania. In addition to listing the bidders who sign the IP, whitelists could also be used to keep track of corporate transparency and integrity commitments, such as data disclosure or adoption of best practices, and their implementation. Structured in this way, whitelists could be used as a record-keeping mechanism and reference for other contracting authorities.

For example, the Integrity and Transparency Register for Companies and Entities, in Argentina, managed by Argentina's Anti-Corruption Office, allows companies to demonstrate their progress in the development of their integrity programmes, in terms of respect for human rights, labour standards, environmental protection and corruption prevention. While a programme's maturity is evaluated through self-assessment questions, the register also features a toolbox to help companies in the process and allow public bodies to better understand the integrity of companies potentially participating in their procurement processes.

The IP could feature or be linked to the assignation of formal recognition or awards for public authorities or bidders that exceed expectations in the implementation of good governance and integrity commitments. The attribution of such awards, which could confer a substantial reputational benefit, could be assigned to a multi-stakeholder panel (public institutions, CSOs, businesses), and be backed by comparative assessments and evidence of effective implementation.

2.4.8. Risk management in Integrity Pacts

The Integrity Pact (IP) is a collaborative tool that brings together government authorities, civil society, businesses, and citizens to ensure transparency and integrity in public procurement. Given the complexity and multi-stakeholder nature of these initiatives, a well-structured approach to risk management is essential for their success. Risks faced during the implementation of IPs fall broadly into three categories: operational, stakeholder, and reputational. Understanding, anticipating, and mitigating these risks are critical to preserving the initiative's credibility, effectiveness, and sustainability.

Operational risks pertain to the technical and administrative challenges in implementing procurement projects. Two major risks under this category are project delays and legal obstacles.

Delays in implementation: These may result from weak institutional capacity, inadequate funding, bureaucratic bottlenecks (such as slow approval processes), or complications in relocating affected communities. Delays can increase the cost and duration of monitoring, while also eroding the interest and engagement of stakeholders—particularly the public. While some fear that IPs themselves may introduce delays, independent reviews have found no evidence of this. On the contrary, IPs have often illuminated the real administrative causes of delay and prompted improvements.

Legal obstacles: In certain jurisdictions, IP provisions may clash with national laws. This can include difficulties in mandating bidder participation or limitations on the monitor's access to decision-making processes. Such issues can be addressed through adaptive strategies like incentivizing voluntary participation (e.g., whitelists) and establishing protocols for prompt post-decision information disclosure, ensuring the monitor's oversight role remains meaningful even if real-time access is restricted.

Stakeholder risks arise from the attitudes and engagement levels of key participants. The IP relies on proactive cooperation, and when this is lacking, the entire process may suffer.

Public officials: Officials may exhibit a "legalistic" mindset—unwilling to engage in activities not explicitly required by law—or may see the IP as an externally imposed burden.

Bidders and suppliers: These actors may be hesitant to participate due to perceived administrative overhead or a lack of tangible incentives.

Affected communities: Communities might be indifferent or even hostile toward a procurement project if they feel it lacks relevance or harms their interests.

Civil society monitor: In some cases, monitors or their team members may have personal or institutional connections to contractors or authorities, creating conflicts of interest.

Mitigating these risks starts with selecting the right procurement projects—those with stakeholder relevance and public interest. An inclusive and transparent IP preparation process that addresses stakeholders' motivations and concerns is essential. Continuous communication of progress and outcomes builds trust. If disputes arise, the civil society monitor may need to mediate between parties, and hold community meetings to clarify roles and propose alternatives.

Reputational risks concern how the IP is perceived by external audiences. A damaged reputation can reduce stakeholder participation, media support, and public trust.

Misunderstanding of the IP: Some actors may misinterpret the role of the monitor or the goals of the IP, casting doubt on its neutrality or effectiveness.

Disinformation and negative publicity: Opponents of transparent procurement—whether from politics, business, or media—may deliberately spread false narratives to discredit the initiative or protect vested interests.

Window-dressing: Governments or companies may use the IP for symbolic compliance, ignoring the monitor's recommendations and failing to implement meaningful transparency reforms.

To counter these risks, a robust communication strategy is essential. Transparency in the IP's governance, funding, and operations must be ensured. Fact-checking and public reporting should accompany implementation. In extreme cases, withdrawal of the civil society monitor from the project—if commitments are not being respected—can serve as a strong public signal.

A structured approach to risk management not only helps navigate challenges but also enhances the IP's value as a tool for reform. By identifying risks early and addressing them proactively, IP participants can protect the initiative's integrity and maximize its impact.

2.4.9. Monitoring and evaluation of the Integrity Pacts

A strong Monitoring, Evaluation and Learning (MEL) framework is essential. It ensures that progress is tracked, results are measured, and lessons are learned and used to improve current and future initiatives. Monitoring and evaluation not only provide evidence of impact but also strengthen trust among stakeholders and enable adaptation during the project lifecycle.

A well-structured MEL system allows IP practitioners to:

- Track the implementation of activities and interventions;
- Measure both short-term and long-term outcomes;
- Identify challenges and opportunities for improvement;

- Advocate for systemic reforms and possible replication of IPs;
- Strengthen credibility through transparency and accountability.

By systematically documenting achievements and setbacks, MEL supports joint advocacy among stakeholders and encourages expansion beyond the specific procurement process or geographic area.

Although each IP must tailor its MEL system to its context, some general principles apply across all projects. These include:

- Developing clear indicators to measure progress and success;
- Gathering and analysing data regularly;
- Conducting evaluations, interim and final, if needed;
- Ensuring participation and learning among all stakeholders.

The IP success can be evaluated along two main dimensions:

1. Procurement-level results:
 - a. The procurement process is completed on time and within budget.
 - b. Efficiency and fairness are improved due to the monitor's oversight.
 - c. Irregularities or misconduct are addressed effectively.
 - d. Disputes are resolved constructively between public and private stakeholders.
2. Systemic and behavioural change:
 - a. Good governance and integrity: Authorities adopt transparent procedures, engage citizens, and improve integrity measures (e.g. codes of conduct, internal controls).
 - b. Business transparency and competition: Companies enhance disclosure, adopt anti-corruption programs, and commit to ethical standards.
 - c. Social accountability: Communities are consulted and engaged, using the IP to voice concerns and monitor redress of grievances.

During the execution of the IP, the civil society monitor must collect data based on the agreed indicators. Sources may include:

- Monitoring logs;
- Reports from field visits or stakeholder meetings;
- Feedback surveys and interviews;
- Documentation of tender outcomes and contract performance.

This data serves as the basis for periodic reports and public updates. Interim reviews should be scheduled to assess implementation, reflect on progress, and make necessary adjustments in strategy or budget. These reviews also provide an opportunity to gather direct feedback from stakeholders on how well the initiative is addressing their expectations.

At the end of the IP, a comprehensive evaluation must be carried out to assess whether the IP has met its goals. This includes:

- Reviewing the effectiveness, efficiency, and relevance of activities;
- Measuring changes in behaviour, policy, or institutional practices;
- Documenting unintended consequences;
- Extracting lessons for future projects.

In some cases, an independent evaluator may be engaged to ensure objectivity and enhance the credibility of findings. Such evaluations are crucial for understanding the broader contribution of the IP and determining whether it should be scaled up or adapted elsewhere.

A proper conclusion of the IP process is essential to ensure sustainability. The final phase should include:

- Public workshops and stakeholder dialogues to reflect on lessons learned;
- Policy recommendations based on monitoring findings;
- A final public report, ideally co-authored by all participants, to promote shared ownership.

This report should outline key results and offer guidance for replication or scale-up. When possible, results should be made accessible through centralised platforms or national procurement portals to foster learning and encourage the adoption of similar initiatives.

2.4.10. Scaling-up the IP in Romania

As mentioned, the IP is recognized as a good practice in Romania, and it is supported by the National Anticorruption Strategy and included in several EU funded programmes. Therefore, there is ample potential for scaling-up the IP. The most important challenge identified at the moment of drafting this report (2024) is the capacity of civil society organisations to act as independent monitors, especially in the less developed Romanian regions.

In this context, TI-Ro is currently preparing the launch of a programme dedicated to civil society organisations to rise their capacity for IP implementation.

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